UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

PATRICK O'BRIEN MURPHY a/k/a,	§	
O'BRIEN MURPHY AND BEVERLY	§	
MURPHY,	§	
	§	
Plaintiffs/Counter-Defendants,	§	
VS.	§	CIVIL ACTION NO. 4:12-CV-3278
	§	
HSBC BANK USA AS TRUSTEE FOR THE	§	
WELLS FARGO ASSET SECURITIES	§	
CORPORATION HOME EQUITY ASSET-	§	
BACKED CERTIFICATES, SERIES 2006-1,	§	
	§	
Defendant/Counter-Plaintiff.	8	

OPINION AND ORDER

Presently before the Court are Defendant/Counter-Plaintiff HSBC Bank USA as Trustee for the Wells Fargo Asset Securities Corporation Home Equity Asset-backed Certificates, Serious 2006-1 by Wells Fargo Bank, N.A.'s ("HSBC") Motion for Summary Judgment on its Counterclaim for Judicial Foreclosure (Doc. 87), Plaintiffs Patrick O'Brien Murphy and Beverly Murphy's Motion to Continue to Conduct Discovery (Doc. 88), and the Magistrate Judge's Memorandum and Recommendation (Doc. 91), recommending that HSBC's motion be granted and Plaintiffs' motion be denied. Plaintiffs filed objections to the Magistrate Judge's Memorandum and Recommendation (Doc. 92), and HSBC responded to those objections (Doc. 93). Upon review of these documents, the facts, and the relevant law, the Court adopts the Magistrate Judge's Memorandum and Recommendation (Doc. 91) as its own, overrules Plaintiffs' Objections, grants HSBC's Motion for Summary Judgment (Doc. 87), and denies Plaintiffs' Motion to Continue to Conduct Discovery (Doc. 88).

Background and Parties' Arguments

On November 1, 2017, the Magistrate Judge entered a Memorandum and Recommendation (Doc. 91) recommending that HSBC's Motion for Summary Judgment (Doc. 87) be granted and Plaintiffs' Motion to Continue to Conduct Discovery (Doc. 88) be denied. On November 20, 2017, Plaintiffs filed untimely objections to the Memorandum and Recommendation. Plaintiffs argue that the Magistrate Judge "failed to consider summary judgment evidence" and "misapplied the standard of review that she cited." Doc. 92 at 2-3. Further, Plaintiffs continue to assert that HSBC lacks standing because it has failed to show that it owns the note at issue. *Id.* at 4.

Standard of Review

Rulings by a magistrate judge on dispositive matters, such as the motion for summary judgment at issue here, "are mere recommendations subject to *de novo* review when properly challenged by the losing party." *Davidson v. Georgia–Pac., L.L.C.*, 819 F.3d 758, 762 (5th Cir. 2016) (citing 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3)). Despite the fact that the objections were not filed in the timely manner, the Court has performed a *de novo* review of the portions of the Memorandum and Recommendation objected to by Plaintiffs.

Analysis

After a careful *de novo* review, the Court concurs with HSBC and the United States Magistrate Judge, who has correctly cited and applied the law to the facts here that are supported by the documentary summary judgment evidence. The evidence reflects an unbroken chain of title from the original lender to HSBC; HSBC's lien is valid as a matter of law and HSBC has established its right to foreclose. *See* Doc. 86 at 28. Accordingly, the Court finds that the Memorandum and Recommendation should be adopted.

¹ Please refer to the Memorandum and Recommendation (Doc. 91) for a detailed discussion of the facts and procedural history of this case.

Conclusion

The Court hereby

ADOPTS the Magistrate Judge's Memorandum and Recommendation (Doc. 91) as its own, OVERRULES Plaintiffs' Objections (Doc. 92), and ORDERS that Counter-Plaintiff HSBC's Motion for Summary Judgment (Doc. 87) is GRANTED. Plaintiffs' Motion (Doc. 88) is DENIED.

SIGNED at Houston, Texas, this 13th day of December, 2017.

MELINDA HARMON

UNITED STATES DISTRICT JUDGE